

Municipal Water Law Implementation

Washington PUD Association
Water Workshop
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Presented by Brian Walsh
WA Department of Ecology

Municipal Water Law Implementation

Purpose of presentation:

- Overview of *Municipal Water Law*
- Update on implementation issues
- Water right processing under Municipal Law
- Involvement – get feedback

Municipal Water Law

- 2003 legislative changes from 2ESHB 1338
- The Municipal Water Supply – Efficiency Requirements Act, Chapter 5, Laws of 2003 (commonly called the “Municipal Water Law”)



Major Provisions of the Act

- 💧 Defines a municipal water supply
- 💧 Resolves “pumps-and-pipes” certificates
- 💧 Authorizes expanding places of use tied to water system planning
- 💧 Clarifies that connections are not a limitation on a water right
- 💧 Increases state and local coordination
- 💧 Mandates *Water Use Efficiency* rule development

What is a Municipal Water Supply?

- RCW 90.03.015(4) defines 3 categories:
 - 💧 Providing water for ≥ 15 residential connections
 - 💧 Providing residential use of water for ≥ 25 people for at least 60 days/year
 - 💧 Governmental purposes by a city, town, PUD, county, sewer/water district

Who's In? Who's Out? Case-by-Case

- Group A Community Systems (In!) Cities, Towns, larger community water systems
- Group A Non-Community Systems (Depends!)
 - 💧 (In!) Most vacation homes, nursing homes, prisons, temporary housing—Key is “residential use”.
 - 💧 (Out!) Most restaurants, schools, daycares, factories.



Group B's

- Group B Systems / less than 15 connections
 - 💧 (Out!) Stand-alone small systems
 - 💧 Ownership doesn't matter
 - 💧 Group B's may be modified via an *Application for Change*, but limited to actual beneficial use

Others

- Governmental or governmental proprietary
 - 💧 (In!) Domestic, commercial, industrial, fire flow, city services, irrigation of parks and open space
 - 💧 (Out!) Agricultural Irrigation, others?

Modifying Municipal Water Rights- What's Different Now?

- Purpose of Use – now an “Operation of Law”, may not need to do anything
- Applications for Change no longer needed
- At purveyors request, via a *Request for Conforming Document* Form, Ecology can issue Superseding Certificate with Municipal as the purpose of use.

Place of Use for Municipal Rights

- 💧 Tied to water system planning
- 💧 The service area will be defined by the purveyor within an approved Water System Plan or Small Water System Management Program. The service area will represent the utility's water right place of use if the service area is
 - 💧 1) in compliance with the terms of the Plan; and
 - 💧 2) if the consistency requirements of this section are met.

Expanded Place of Use Requires Consistency with Local Plans

- To maintain benefit of expanded Place of Use purveyors need to remain “consistent” with water system plan,
- Including local planning efforts - Expanded service area linked to consistency with County Land use Plans



And, 2514 Watershed Plans too

- The MWL links Watershed Planning to water system plans.
- Ecology will determine that water system plans/small water system management programs are not inconsistent with watershed plans approved under Chapter 90.82 RCW or adopted under Chapter 90.54 RCW.



Determining Consistency

- (Or “not inconsistency”!)
- Purveyors will be required to submit Consistency Checklists to local planning jurisdictions, and Watershed Planning Groups

What's Still the Same for Municipal Water Right Changes?

■ Point of Diversion/Withdrawal

- 💧 Nothing new—either *Application for Change* or *Showing of Compliance*
- 💧 Ecology generally has short turn-around on request to modify existing water rights

Assessment of Extent and Validity

- A tentative determination of the extent and validity of a water right is required for every change. Why?
 - 💧 Supreme Court rulings (i.e. *Twisp*, *Theodoratus*, *Sullivan Creek*, etc.)
 - 💧 Perfected rights can be changed in ways unperfected rights cannot.
- Inchoate water for a municipal supply water right is “in good standing” (RCW 90.03.330) and may be developed consistent with the intent of the permit.
- Document perfected/unperfected balance in ROE.

What about Consolidation of Group B's?

- Ecology encourages it – makes good management sense and provides resource protection benefits
- Does require the filing of an Application for Change to modify the place of use, purpose of use, and perhaps point of withdrawal
- Right limited to extent of beneficial use
- Changes generally expedited

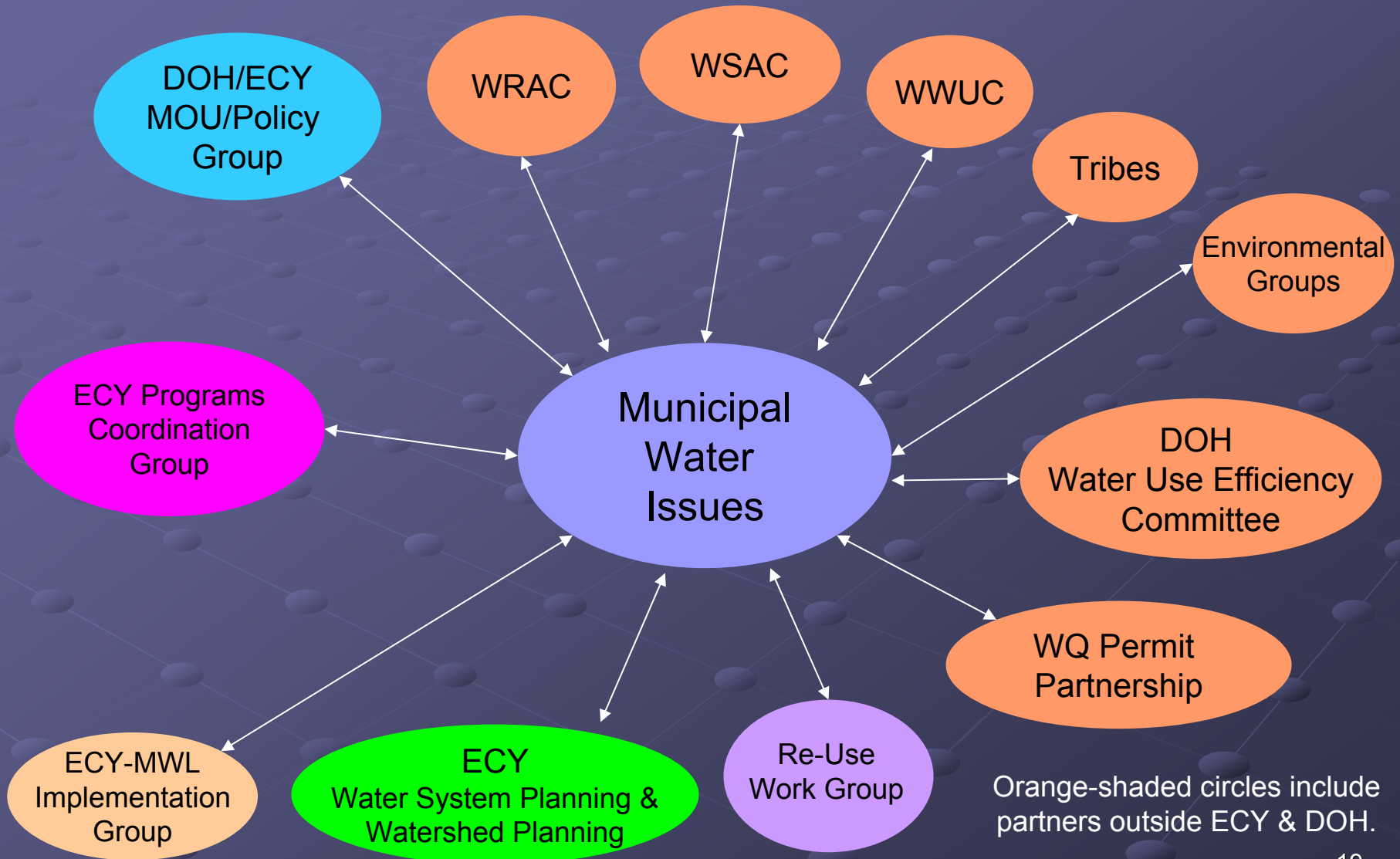
More on Group B's

- Group B's generally limited to number of connection in water right
- However, we acknowledge that some systems may exist with more connections than originally authorized

Ongoing Activities...

- Memorandum of Agreement with DOH on coordination of MWL implementation
- Development of guidance documents and focus sheets
- Training
- Conservation Rulemaking (DOH)

Municipal Water Coordination Efforts



Ecology/Health MOU

- New MOU will describe how the two agencies will work together.
- Replaces the last update done in February 11, 2002

MOU Goals

- Coordinate between Ecology and Health staff in water rights administration and the review and approval of water system plans, and source approvals.
- Establish procedures between Ecology – Watershed Planning in the Shorelands and Environmental Assistance Program, Ecology – Water Resources Program and Health Office of Drinking Water in the review of watershed planning consistency with water system plans/management programs.

Web Information

DOH Office of Drinking Water

<http://www.doh.wa.gov/ehp/dw/default.htm>

- Interim Guidance on Municipal Water Law and information on water system planning

Ecology Water Resources Program

<http://www.ecy.wa.gov/programs/wr/wrhome.html>

- Focus sheets planned in 2005

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